

# Notice of Allowability

Application No.

09/963,800

Examiner

Monique M Wills

Applicant(s)

KOLB ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 4/9/04.
2. ☒ The allowed claim(s) is/are 1-6.
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☒ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date 5/26/04.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☒ Other request for formal drawings.

***EXAMINER'S AMENDMENT***

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

The application has been amended as follows:

On page 1, line 4 of the specification, add " This is a Continuation-In-Part of U.S. patent application Ser. No. 09/362,147, filed July 28, 1999, now Abandoned.

***EXAMINER'S AMENDMENT***

The following is an examiner's statement of reasons for allowance: the instant claims are allowable over the prior art, because the prior art is silent to an electrochemical cell having a controlled electrode surface comprising: an additive associated with a carbonaceous electrode surface; wherein the additive is selected from 4-methyl-tetrahydropyran-2, 6-dione; isophorene; 8-methyl-4-oxa-tricyclo[5.2.1.0<sup>2,6</sup>] dec-8-ene-3,5-dione; 6a-methyl-hexahydrofuro[2,3-b] furan-2, 5-dione; 1,8,8-trimethyl-3-oxyabicyclo[3.2.1] octane-2, 4-dione; and 1-methyl-pyrrolidine-2,5-dione.

The prior art, such as Kolb et al. U.S. Patent 6,045,937, teaches an electrochemical cell having a controlled electrode surface comprising a passivating layer at the carbonaceous electrode/electrolyte interface. The reference is silent to the additive necessitated by instant claim 1. Therefore, the subject invention is patentably distinct from Kolb.

### *Drawings*

New corrected drawings are required in this application because the application contains INFORMAL drawings. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

### *CONCLUSION*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Fauteux et al. U.S. Patent, 6,613,475, teaches an electrochemical cell having a pre-passivated electrode and associated fabrication process. Fauteux et al., U.S. Patent 6,358,289, teaches conditioning carbonaceous materials through slow scanning cycling in an electrochemical cell. Fauteux et al., U.S. Patent 6,268,080, teaches a process for conditioning an electrochemical cell. Kolb et al., U.S. Patent 6,228,531, teaches an electrode modification using surface associated lithium salts and an associated process for fabrication of an electrode. Kolb et al., U.S. Patent 6,495,287, teaches an electrochemical cell having a pre-passivated electrode and associated fabrication process. Fauteux et al., U.S. Patent 5,965,297, teaches an electrode material having carbon particles with nano-sized inclusions therewithin and an associated electrochemical and fabrication process. Kolb et al. U.S. Patent 6,045,937, teaches an electrochemical cell having a controlled electrode surface and associated fabrication and chemical process. The cited references are patentably distinct from the subject invention

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because they are silent to a carbonaceous electrode associated with the additives necessitated by claim 1.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Monique Wills whose telephone number is (571) 272-1309. The Examiner can normally be reached on Monday-Friday from 8:30am to 5:00 pm.

If attempts to reach Examiner by telephone are unsuccessful, the Examiner's supervisor, Randy Gulakowski, may be reached at 571-272-1302. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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